

REMARKS

Claims 21-40 are pending in the present application.

Claims 21-40 have been rejected.

Claim 29 has been objected to.

No claims have been allowed.

Claims 21, 23-27, 29, 31-35, 37, 39 and 40 are amended herein

Claims 21-40 remain in the present application.

Reconsideration of Claims 21-40 is respectfully requested.

In Section 1 of a final Office Action mailed May 15, 2005, the Examiner objected to Claim 29 because of a typographical error. Claim 29 has been amended so that "coverage are" now reads "coverage area".

In Section 2 of the final Office Action, the Examiner rejected Claims 37-40 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,069,885 to *Fong et al.* (hereafter, simply "*Fong*"). In Section 3 of the final Office Action, the Examiner rejected Claims 21-36 under 35 U.S.C. §103(a) as being unpatentable over *Fong* in view of U.S. Patent No. 6,323,823 to *Wong et al.* (hereafter, simply "*Wong*"). The Applicant respectfully asserts that the rejections of Claims 21-36 under 35 U.S.C. §103(a) are moot in view of the amendments to the claims.

In an Advisory Action mailed August 4, 2005, the Examiner provided an explanation of why the Applicant's request for reconsideration did not place the application in condition for allowance.

In this submission, the Applicant respectfully traverses the rejection of the claims and the Examiner's further assertions in the Advisory Action.

The Applicant directs the Examiner's attention to amended Claim 21, which recites the unique and non-obvious limitations emphasized below:

21. For use in a wireless network, a base station comprising an antenna array capable of transmitting forward channel data into S sectors associated with said base station, wherein said base station
receives a plurality of data packets in a first data frame of a wireline connection,
associates a first one of said received data packets with a corresponding first one of said S sectors,
associates a second one of said received data packets with a corresponding second one of said S sectors, said first and second sectors being different ones of said S sectors, and
concurrently transmits said first and second data packets in said corresponding first and second sectors during a first subframe of a first forward channel data frame. (Emphasis added)

Applicant respectfully asserts that the above-emphasized limitation are not disclosed, suggested, or even hinted at in the *Fong* reference or the *Wong* reference, or a combination of the *Fong* and *Wong* references.

The Examiner asserts that the *Fong* reference describes a base station of a wireless network associating received data packets with corresponding ones of S sectors associated with the base station, citing column 6, lines 62-63. The cited passage reads: "Sectors with label i can schedule packet transmission time slots of subframe i." The Applicant respectfully submits that neither the cited passage nor the remainder of the *Fong* reference describes associating a received packet with a corresponding sector associated with the base station. As such, the *Fong* reference fails to teach

associating a first received data packet with a first sector and associating a second received data packet with a second sector, as recited in amended Claim 21.

In the Advisory Action mailed August 4, 2005, the Examiner points out that at column 4, lines 46-47, the *Fong* reference describes providing high-speed broadband packet service to users. The Examiner then makes the conclusory statement that the packets received by the base station “must be associated with a mobile subscriber who is located in one of said S sectors, thus associating each of the received data packets with a corresponding one of said S sectors.” The Applicant is unsure whether the Examiner is taking Official Notice of facts without supporting documentary evidence or is asserting that such limitations are inherent in the system described in the *Fong* reference. The Applicant respectfully requests that the Examiner clarify his assertion and, if taking Official Notice, support the assertion with adequate evidence, as required by MPEP 2144.03.

Additionally, the Examiner asserts that the *Fong* reference describes transmitting data packets in their corresponding sectors concurrently, citing column 6, lines 51-65, and noting that the sectors labeled “1” transmit packet data concurrently. The Applicant respectfully submits that the *Fong* reference does not teach that data packets transmitted in one sector labeled “1” are different than data packets transmitted in another sector labeled “1.” Therefore, the *Fong* reference fails to teach concurrently transmitting first and second data packets in first and second sectors associated with a base station during a first subframe of a first forward channel data frame, as recited in amended Claim 21.

Thus, Claim 21 recites unique and non-obvious limitations that are not disclosed, suggested or even hinted at in the *Fong* reference. Furthermore, the *Wong* reference does nothing to overcome the shortcomings of the *Fong* reference. This being the case, Claim 21 contains subject matter that is patentable over the *Fong* reference, the *Wong* reference, and the combination of the *Fong* and *Wong* references.

Dependent Claims 22-28 depend from Claim 21 and recite all of the unique and non-obvious limitations recited in Claim 21. Thus, Claims 22-28 are also patentable over the cited prior art references. Also, independent Claims 29 and 37 recites limitations that are analogous to the unique and non-obvious limitations recited in Claim 21. This being the case, Claims 29 and 37 are patentable over the *Fong* reference and the *Wong* references, either individually or in combination. Finally, dependent Claims 30-36 and 38-40, which depend from Claims 29 and 37, respectively, recite all of the unique and non-obvious limitations recited in their base claims. Thus, Claims 30-36 and 38-40 are also patentable over the cited prior art references.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.


The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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